

in advance of others when that issue is deemed critical to resolving the case or effecting a settlement of any items in dispute; and

(d) Developing a record regarding relevant facts through an on-the-record round-table discussion with sworn witnesses, counsel, and the presiding judge rather than through formal direct and cross-examination of each of these same witnesses. This discussion shall be controlled by the presiding judge. It may be conducted, for example, through the presentation of narrative statements of witnesses or on an issue by issue basis. The presiding judge may also request that the parties' counsel or representatives present opening and/or closing statements in lieu of written briefs.

[72 FR 36795, July 5, 2007, as amended at 73 FR 26952, May 12, 2008]

6101.52 Small claims procedure [Rule 52].

(a) *Election.* (1) The small claims procedure is available solely at the appellant's election. Such election shall be made no later than 30 calendar days after the appellant's receipt of the agency answer, unless the presiding judge enlarges the time for good cause shown. The appellant may elect this procedure when:

(i) There is a monetary amount in dispute and that amount is \$50,000 or less, or

(ii)(A) There is a monetary amount in dispute and that amount is \$150,000 or less, and

(B) The appellant is a small business concern (as that term is defined in the Small Business Act and regulations promulgated under that Act).

(2) At the request of the respondent, or on its own initiative, the Board may determine whether the amount in dispute and/or the appellant's status makes the election inappropriate. The respondent shall raise any objection to the election no later than 10 working days after receipt of a notice of election.

(b) *Decision.* The presiding judge may issue a decision, which may be in summary form, orally or in writing. A decision which is issued orally shall be reduced to writing; however, such a decision takes effect at the time it is ren-

dered, prior to being reduced to writing. A decision shall be final and conclusive and shall not be set aside except in case of fraud. A decision shall have no value as precedent.

(c) *Procedure.* Promptly after receipt of the appellant's election of the small claims procedure, the Board shall establish a schedule of proceedings that will allow for the timely resolution of the appeal. Pleadings, discovery, and other prehearing activities may be restricted or eliminated.

(d) *Time of decision.* Whenever possible, the presiding judge shall resolve an appeal under this procedure within 120 calendar days from the Board's receipt of the election. The time for processing an appeal under this procedure may be extended if the appellant has not adhered to the established schedule. Either party's failure to abide by the Board's schedule may result in the Board drawing evidentiary inferences adverse to the party at fault.

[72 FR 36795, July 5, 2007, as amended at 73 FR 26952, May 12, 2008]

6101.53 Accelerated procedure [Rule 53].

(a) *Election.* (1) The accelerated procedure is available solely at the appellant's election, and only when there is a monetary amount in dispute and that amount is \$100,000 or less. Such election shall be made no later than 30 calendar days after the appellant's receipt of the agency answer, unless the presiding judge enlarges the time for good cause shown.

(2) At the request of the respondent, or on its own initiative, the Board may determine whether the amount in dispute is greater than \$100,000, such that the election is inappropriate. The respondent shall raise any objection to the election no later than 10 working days after receipt of a notice of election.

(b) *Decision.* Each decision shall be rendered by the presiding judge with the concurrence of one of the other judges assigned to the panel; in the event the two judges disagree, the third judge assigned to the panel will participate in the decision.